

Application Number: 10/427,331
Response dated September 9, 2005
Reply to Office Communication of March 9, 2005

Amendments to the Drawings

Please enter replacement drawing FIG. 2., which is page 3 to this response.

REMARKS

These remarks address the office communication mailed by the Examining Attorney, Joseph A. Kaufman, on May 13, 2005. Claims 1-20 are currently pending in this application.

A. DRAWINGS

The Examining Attorney objected to the disclosure, stating that numeral 11, first discussed on page 3, line 12, is not shown in the drawings. Replacement drawings for FIG. 2 is submitted herewith and incorporates numeral 11. The applicant submits that no new matter has been added through this incorporation of numeral 11 on FIG. 2.

B. CLAIM REJECTIONS

1. ALLOWABLE SUBJECT MATTER

The Examiner has informed that claim 10 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. New independent claim 19 contains the subject matter of claim 10, including all of the limitations of the base claim and any intervening claims, and does not include any new matter. Based on the Examiner's comments to claim 10, the applicant submits that this new claim 19 is allowable.

2. 35 U.S.C. § 103

The Examining Attorney has rejected claims 1-9 and 11-14, under 35 U.S.C. § 103(a), as being unpatentable over Oike in view of George. Specifically, the Examiner states that:

"Oike discussed a handle having a hollow shell as the plastic/resin wood-grain finish discussed column 1, lines 51-53; and the specific foam fillings discussed in column 1, line 47, column 2, line 68 – column 3, line 1 and column 3, line 27. Oike lacks the

handle being a tap handle, the material for the outer shell and the details of the handle structure. George shows a tap handle 70 having an open end as seen in Figure 2 and a ferrule with threads that attaches to a threaded post 72 as seen in Figure 2. It would have been obvious to one of ordinary skill in the art to make other handle structures like the tap of George with the materials of Oike in order to make a tap that is inexpensive and resistant to damage. The specific materials for the shell would have been obvious based on aesthetic considerations and the desired strength of the shell. Finally, employing glue in the open part of the shell would have been obvious in order to better and more permanently attach the handle to the remaining portion of the valve."

To establish a *prima facie* case of obviousness, there must be: (1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference must teach or suggest all of the claim limitations. *See* MPEP 2142.

The applicant respectfully submits that even if the Oike reference were combined with the George reference, applicant's invention would not be disclosed. Referring broadly first to the disclosure in the Oike reference, it is noted that the construction of the foam handle differs fundamentally in structure and material from applicant's invention. The Oike reference is primarily directed to constructing a foam composite door handle capable of complying with Federal Motor Vehicle Safety Standards. The Oike foam handle is made from a composition comprising a polyol, a polyisocyanate, a crosslinking agent, a catalyst, a foam stabilizer and a blowing agent. The door handle of the Oike reference is created by injecting the composition directly into a mold having a shape of a handle. After the foam composite has set, the door handle is removed from the mold.

In contrast, the applicant's invention is directed to a tap handle having a traditional appearance, but one that is strong and durable and capable of withstanding a variety of traumas that traditional tap handles are incapable of withstanding. For example, traditional

ceramic tap handles are typically composed entirely of ceramic materials. Due to their construction, ceramic tap handles are incapable of withstanding significant temperature and pressure factors. For example, if heated to a high enough temperature, a ceramic tap handle is likely to shatter, creating a dangerous situation for the user of the tap handle.

The tap handle of the applicant's invention, on the other hand, employs a hollow elongated shell having a hard foam disposed within. The shell of the tap handle is composed of traditional tap handle materials such as stoneware, porcelain, resin, plastic or wood. These materials preserve the outer exterior appearance of traditional tap handles. However, to overcome the strength and durability issues not currently addressed in the industry, a foam material is disposed within said shell of said claimed invention to create a strong and durable tap handle. Strength and durability of tap handles, while maintaining the appearance and finish of traditional beverage dispensing tap handles is a primary object of the present invention.

The Oike reference does not contemplate a shell, let alone shell materials composed of traditional tap handle materials. In fact, the Oike reference does not teach or suggest, and is not concerned with, the reinforcement of traditional tap handle materials. Instead, the Oike reference is focused on a foam composition used to create a door handle. Although the handle of the Oike reference may have a woodgrain finish, the Oike reference does not contemplate or disclose disposing its foam composition within the woodgrain finish of the Oike reference (emphasis added). Instead the woodgrain finish of the Oike reference is painted on the foam handle after it has been removed from the mold in which it is formed ("moreover, a clear woodgrain pattern can be manifested on the surface of the skin layer and a good woodgrain finish coating can be formed thereon.") See column 3, lines 41-44 of Oike. In addition, not only does the Oike reference not disclose the use of other materials in connection with its foam

composition handle, it actually directs away from using the traditional tap materials set forth in the claimed invention. The Oike reference does not recommend using (i) a material such as wood, due to its high cost; or (ii) rigid polyurethane foam, as it is easily cracked. *See* the Oike reference, column 1, lines 16-17 and 30-37.

On the other hand, the claimed invention discloses a shell composed of traditional tap handle materials such as wood, resin, plastic, porcelain and stoneware. Foam is disposed within these shells, thereby allowing the beverage dispensing handle to maintain its traditional appearance, but strengthening the shell material to create a longer-lasting and more durable beverage dispensing handle. While the Oike reference is concerned with the safety of some polyurethane foam handles, it is not concerned with, and does not contemplate, a beverage dispensing handle having wood, resin, plastic, porcelain and stoneware shells. It is these considerations of the different design aspects of employing a shell made of traditional beverage dispensing materials, and disposing foam within said shell to strengthen and to provide durability to an aesthetically traditional tap handle, which require inventive thinking.

The applicant also respectfully traverses the Examining Attorney's statements that: (i) the specific materials for the shell set forth in the claimed invention would have been obvious based on aesthetic considerations and the desired strength of the shell, and (ii) that employing glue in the open part of the shell would have been obvious in order to better and more permanently attach the handle to the remaining portion of the valve. There is no evidence, either in the Oike or George references, or in the claimed invention, of the Examiner's assertions. The applicant respectfully submits that the Examiner cannot simply reach a conclusion based on...its assessment of what would be basic knowledge or common sense. Rather, it must point to some concrete evidence in the record in support of these findings. *See In re Zurko*, 258 F.3d 1379, 59

USPQ2d 1693 (Fed.Cir. 2001) ("[T]he Board cannot simply reach conclusions based on its own understanding or experience-or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings.").

Applicant submits that the differences in form and function between applicant's invention, the Oike reference and the George reference are substantial, and applicant therefore submits that applicant's invention is not unpatentable over the Oike reference in view of the George reference. On this basis, and based on the arguments set forth above, the applicant respectfully requests that the Examiner withdraw his obviousness rejection.

3. NEW CLAIM 20

The applicant has added new claim 20, which clarifies that the foam is injected into the shell of the claimed invention. The applicant submits that no new matter has been added in this claim, as it is supported by both the written specification and drawings. The applicant also submits that this claim is allowable due to the claim limitations set forth therein, as well as on the arguments discussed above for the Oike reference.

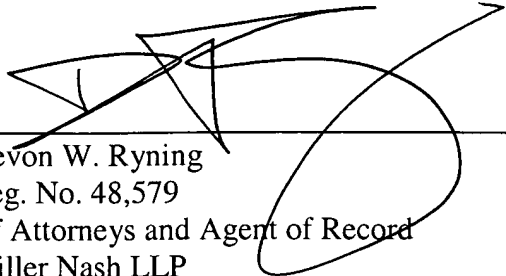
CONCLUSION

Reconsideration of the claims is respectfully requested in view of the above amendments and remarks and an early notice of allowance is accordingly solicited. In the event that there are any questions concerning this response, or the application in general, the Examiner is respectfully urged to telephone the undersigned attorney so that prosecution of the application may be expedited.

Please charge Deposit Account No. 13-3571 for any additional fees which may be required.

Application Number: 10/427,331
Response dated September 9, 2005
Reply to Office Communication of March 9, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Devon W. Ryning', is written over a horizontal line. The signature is stylized with a large loop and a long horizontal stroke.

Devon W. Ryning
Reg. No. 48,579
Of Attorneys and Agent of Record
Miller Nash LLP
4400 Two Union Square
601 Union Street
Seattle, WA 98101
Tel: (206) 622-8484